



STATE OF DELAWARE
DEPARTMENT OF AGRICULTURE
DELAWARE HARNESS RACING COMMISSION
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Minutes of the Meeting Held March 9, 2010

The Delaware Harness Racing Commission met for a meeting at Dover Downs,
Dover, Delaware at 10:15 a.m. on Tuesday, March 9, 2010.

Commission Members Present

Beth Steele, Chairman	Larry Talley, Commissioner
Robert B. Brown, Commissioner	Patt Wagner, Commissioner
George P. Staats, Commissioner	

Others Present

Andrew Kerber, Deputy Attorney General	Brian Manges, Investigator
Charles Lockhart, VP of Horse Racing, D. Downs	Scott Egger, Presiding Judge
John Hensley, Sr. Dir., Horse Racing, D. Downs	Hugh Gallagher, Administrator
Salvatore DiMario, Executive Director, DSOA	Jo-Ann Price, Paralegal
James Boese, General Manager, HRI	B.A. Davis, DHRC Licensing
Karen Craft, Facilities Manager, HRI	Daniel Caldwell, DHRC Inspector
Judy Davis-Wilson, Executive Director, DSBF	Brian J. Manges, DHRC Chief Inspector
John T. Peters, D.V.M.	Emily Galloway, D.V.M.
Donald Long, DHRC	Everett Bickling, DHRC Paddock Inspector
Mark Davis, DDA	Stephani Ballard, Esq.
Arthur Stafford, Horseman	Pedro Sanchez, Horseman
Karen Stafford, Horseman	Joe Strug, Dalare Associates
Bob Willard, DAG	Gil Shout, DSI Pointe
Joe Dugan, Trainer	Annie Renzetti, DHRC Chief Veterinarian

CALL TO ORDER

Chairman Steele called the public session of the meeting to order at 10:21 AM and welcomed all in attendance.

APPROVAL OF MINUTES

Commissioner Brown moved to approve the January 12, 2010 DHRC Minutes as written. Commissioner Staats seconded. The Motion passed unanimously.

OLD BUSINESS

Proposed Changes to Rule 5.1.8 from Rules Committee (Substance Abuse/Addiction)

Mr. Kerber explained that this proposed language is the result of deliberations from a subcommittee of the Rules Committee and is being presented for approval for the first time by the Commission today. It will be published for a public hearing at which time further

comments can be made. This is regarding human drug testing; it has nothing to do with horse testing. Quite a bit of time has been spent on this, using comments from Mr. Egger, principal of the program, input from tracks, and input from himself as to form. The result is a better organized rule, which is shorter and limited to consideration of testing, what the violations are, what

testing requires and what appropriate sanctions are for violations within a two year period. Mr. DiMario was on the subcommittee but was not at the meeting where changes were made. Also, in field testing you are entitled to a lab test, with a breathalyzer test there is no sample preserved for a lab test. Mr. DiMario is willing to work with Mr. Kerber and the subcommittee to make it work. As to Rule 5.1.8.5.7, Mr. DiMario commented he is uncomfortable with the word "may" being used; this rule is redundant and not proper, especially if this is a person's first violation. The penalty is too severe and gives them nothing to work with; it's discouraging and causing them to lose their license for five years might make them give up on racing, as this is how they make their living. Mr. Lockhart understood Mr. DiMario's concern, but commented that if in fact someone is a cokehead or some other kind of addict, we are an industry based on trust and integrity and we don't want their participation. He suggested the Commission move forward on this proposal out of respect for the work the committee did, as there will obviously be time for public comment later. More discussion ensued, with Chairman Steele clarifying that the purpose of the rule was to catch the really hardened abuser, not someone who just made one mistake. Commissioner Wagner asked if the rule wasn't meant to be a

deterrent; Commissioner Talley emphasized that the discretion is given to the Commission to make its decision as to the proper penalty for the specific case. He responded to Mr. DiMario by stating that his comments implied he didn't have faith that the Commission or the people involved would know what to do. The reviewers of the case would know if someone was trying to pull their leg or if someone fell off the wagon once. Mr. DiMario agreed; he said he didn't have the faith in government that Mr. Talley did; once the government gets involved, things tend to get gummed up. Commissioner Brown added that the DHRC is trying to work with the horsemen to give them a chance. Mr. DiMario again stated that there already is a procedure in place. Commissioner Wagner offered to strike the language "including a prescription drug taken without a valid prescription;" Mr. DiMario agreed to that amendment. Chairman Steele concluded that the original thought was to prohibit cocaine, etc. from the track, which puts everyone at risk. Commissioner Wagner made a Motion to accept the change; Commissioner Brown seconded the Motion; it passed unanimously. The language will be published for a public hearing in May.

NEW BUSINESS

Appeals

Pedro Sanchez (DD-303-09, equine caffeine positive.) The

appeal began at 10:50 AM. Stephani Ballard, Esq. appeared for Mr. Sanchez; Robert Willard, DAG, appeared for the judges. Ms. Ballard claimed there were due process violations and asked that the appeal be dismissed. Mr. Willard said there are exceptions to the hearsay rule, one of which is business record. This is Mr. Kerber's first notice of this motion; it needs to be heard now in order to be more thoroughly analyzed. After discussion, Mr. Kerber advised the Commission to deny Ms. Ballard's motion; Commissioner Talley moved to deny it; Commissioner Brown seconded; the Motion passed unanimously. The appeal proceeded, with a brief recess called at 11:45 AM. It reconvened at 11:55 AM, and concluded at 12:30 PM.

After discussion, Commissioner Wagner made a Motion to complete the record, per DHRC Rule 10.3.8.10, by calling upon a party for further relevant or procedural information re: chain of custody; Commissioner Staats seconded; Mr. Kerber clarified that this information will be brought to the next meeting at which time the final decision will be made, and the Motion passed unanimously.

Ms. Ballard objected; she said all the evidence should have been presented today.

Mr. Kerber reiterated that the Sanchez hearing will reconvene at the next DHRC meeting on April 13th and said she would receive that

evidence, and have time to comment on it.

Off the record 12:40 PM.

Back on the record at 12:46 PM; Mr. Willard offered that Dr. Galloway is present and able to testify as to chain of custody, and Ms. Ballard and Mr. Sanchez are here. Dr. Galloway testified; afterward, Mr. Kerber recommended that the Commission still keep the record open and go off the record and proceed as planned earlier. The Commission accepted this advice; Ms. Ballard opposed the DHRC's decision. The record was closed at 12:52 PM.

Arthur Stafford, Sr. (HAR-286-09 Refusing to allow a State official to examine his horse and using improper language towards a State official.) The appeal began at 12:53 PM, with John Garey, Esq. appearing for Mr. Stafford and Mr. Robert Willard appearing for the Judges. Mr. Garey stated one Commissioner has a prior relationship by marriage to him; there is no objection by the State or the Commission to proceeding without recusal. The State wished to drop a portion of the charge; the Commission veterinarian was not prevented from checking the horse. Also, to clarify for the record, Dr. Galloway was a *Commission Veterinarian*, not a State vet. Testimony was taken; went off the record 1:45 PM to deliberate. At 1:57 PM, Commissioner Brown made a Motion to lower the penalty to \$500; simultaneously

Commissioners Talley and Staats seconded; Commissioner Wagner opposed. The record was closed at 1:58 PM.

REPORTS

- **Administrator's**
- **Chief Veterinarian's**
- **Presiding Judge's**

None were offered.

PUBLIC COMMENT

None was offered.

ADJOURNMENT TO PUBLIC SESSION/ ADJOURNMENT TO EXECUTIVE SESSION

At 2:00 PM, having no further business, Chairman Steele moved to adjourn to public session; adding that after lunch only Executive Session would be conducted, Commissioner Staats seconded, and the Motion passed unanimously.

UPCOMING EVENTS

DHRC: April 13, 2010
Rules Committee: May 4, 2010

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